

UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

MICHAEL FLUCKIGER

Case No.)
3:15-mj-94

Defendant(s)

FILED
CHARLOTTE, NC

MAR 04 2015

CRIMINAL COMPLAINT

U.S. DISTRICT COURT
WESTERN DISTRICT OF NC

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of August 24, 2014 to March 4, 2015 in the county of Caldwell in the
Western District of North Carolina, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. § 2251(d)(1) and (e)	Conspiracy to advertise child pornography.

This criminal complaint is based on these facts:

See attached affidavit.

 Continued on the attached sheet.

 Complainant's signature

Daniel Alfin, Special Agent FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 03/04/2015

 Judge's signature
City and state: Charlotte, North Carolina

David C. Keesler, U.S. Magistrate Judge

Printed name and title

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

IN THE MATTER OF THE
COMPLAINT AND ARREST OF:

MICHAEL FLUCKIGER

Case No. 3:15-mj-94

AFFIDAVIT OF DANIEL ALFIN
IN SUPPORT OF A COMPLAINT AND ARREST OF
MICHAEL FLUCKIGER

I, Daniel Alfin, being duly sworn, depose and state as follows:

1. I am a Special Agent of the FBI, assigned to the Major Case Coordination Unit (“MCCU”), Violent Crimes Against Children Section, and I am the case agent for this investigation.
2. I am a Special Agent with the Federal Bureau of Investigation, and have been since April 2009. I am currently assigned to MCCU, Violent Crimes Against Children Section, FBI in Linthicum, Maryland. As such, I am currently assigned to investigate, among other things, crimes relating to the online, sexual exploitation of children including the trafficking and possession of child pornography. The MCCU is responsible for enforcing federal criminal statutes involving the sexual exploitation of children under Title 18,

United States Code, Chapters 110 and 109A. As a Special Agent with the FBI, I have received specialized training in the investigation of child pornography and the sexual exploitation of children. I have observed and reviewed numerous examples of child pornography in various media formats, including computer-based formats. I have received particularized training in the investigation of computer-related crimes, peer-to-peer computer networking, web-based bulletin boards and online (i.e., Internet-based) crimes against children.

3. I am an “investigative or law enforcement officer” of the United States within the meaning of Section 2510(7) of Title 18, United States Code, and am empowered by law to conduct investigations of, and to make arrests for, offenses enumerated in Section 2516 of Title 18, United States Code.
4. I am investigating Michael Fluckiger for conspiracy to advertise child pornography. As will be shown below, there is probable cause to believe that Michael Fluckiger, with others known and unknown, has conspired to advertise child pornography, in violation of 18 U.S.C. §§ 2251(d)(1) and (e). I submit this application and affidavit in support of a complaint and arrest of Michael Fluckiger.
5. The statements contained in this affidavit are based in part on: my own investigation; information provided by FBI Special Agents; written reports about this and other investigations that I have received, directly or indirectly, from other law enforcement

agents, including foreign law enforcement agencies as described below; information gathered from the service of administrative subpoenas; the results of physical and electronic surveillance conducted by federal agents; independent investigation and analysis by FBI Agents; and my experience, training and background as a Special Agent with the FBI. I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that Michael Fluckiger has violated 18 U.S.C. §§ 2251(d)(1) and (e).

STATUTORY AUTHORITY

6. This investigation concerns alleged violations of 18 U.S.C. §§ 2251(d)(1) and (e), which prohibit a person from knowingly conspiring to make, print or publish, or causing to be made, printed or published, any notice or advertisement seeking or offering: (A) to receive, exchange, buy, produce, display, distribute, or reproduce, any visual depiction, if the production of such visual depiction involves the use of a minor engaging in sexually explicit conduct and such visual depiction is of such conduct, or (B) participation in any act of sexually explicit conduct by or with any minor for the purpose of producing a visual depiction of such conduct; relating to material involving the sexual exploitation of minors.

DEFINITIONS

7. The following definitions apply to this Affidavit:
 - a. "Child Pornography" includes any visual depiction of sexually explicit conduct where (a) the production of the visual depiction involved the use of a minor engaged in sexually explicit conduct; (b) the visual depiction was a digital image, computer image, or computer-generated image that is, or is indistinguishable from, that of a minor engaged in sexually explicit conduct; or (c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaged in sexually explicit conduct. *See 18 U.S.C. § 2256(8).*
 - b. "Minor" means any person under the age of 18 years. *See 18 U.S.C. § 2256(1).*
 - c. "Sexually explicit conduct" refers to actual or simulated (a) sexual intercourse (including genital-genital, oral-genital, or oral-anal), whether between persons of the same or opposite sex; (b) bestiality; (c) masturbation; (d) sadistic or masochistic abuse; or (e) lascivious exhibition of the genitals or pubic areas of any person. *See 18 U.S.C. § 2256(2)(A).*
 - d. "Visual depictions" include undeveloped film and videotape, and data stored on computer disk or by electronic means, which is capable of conversion into a visual image. *See 18 U.S.C. § 2256(5).*

- e. "Website" consists of textual pages of information and associated graphic images. The textual information is stored in a specific format known as Hyper-Text Markup Language ("HTML") and is transmitted from web servers to various web clients via Hyper-Text Transport Protocol ("HTTP").
- f. "Bulletin Board" means an Internet-based website that is either secured (accessible with a password) or unsecured, and provides members with the ability to view postings by other members and make postings themselves. Postings can contain text messages, still images, video images, or web addresses that direct other members to specific content the poster wishes. Bulletin boards are also referred to as "internet forums" or "message boards." A "post" or "posting" is a single message posted by a user. Users of a bulletin board may post messages in reply to a post. A message "thread" (or "topic") refers to a linked series of posts and reply messages. Message threads often contain a title, which is generally selected by the user who posted the first message of the thread. Bulletin boards often also provide the ability for members to communicate on a one-to-one basis through "private messages." Private messages are similar to e-mail messages that are sent between two members of a bulletin board. They are accessible only by the user who sent/received such a message, or by the Website administrator.
- g. "Internet Service Providers" ("ISPs"), as used herein, are commercial organizations that are in business to provide individuals and businesses access to

the Internet. ISPs provide a range of functions for their customers including access to the Internet, web hosting, e-mail, remote storage, and co-location of computers and other communications equipment. ISPs can offer a range of options in providing access to the Internet including telephone based dial-up, broadband based access via digital subscriber line ("DSL") or cable television, dedicated circuits, or satellite based subscription. ISPs typically charge a fee based upon the type of connection and volume of data, called bandwidth, which the connection supports. Many ISPs assign each subscriber an account name – a user name or screen name, an "e-mail address," an e-mail mailbox, and a personal password selected by the subscriber. By using a computer equipped with a modem, the subscriber can establish communication with an Internet Service Provider ("ISP") over a telephone line, through a cable system or via satellite, and can access the Internet by using his or her account name and personal password.

- h. "Internet Protocol address" or "IP address" refers to a unique number used by a computer to access the Internet. IP addresses can be "dynamic," meaning that the ISP assigns a different unique number to a computer every time it accesses the Internet. IP addresses might also be "static," if an ISP assigns a user's computer a particular IP address which is used each time the computer accesses the Internet. IP addresses are also used by computer servers, including web servers, to communicate with other computers.

PROBABLE CAUSE

8. There is probable cause to believe that Michael Fluckiger is a member of an online community of individuals who regularly advertise, send and receive child pornography via a website, which is described below and referred to herein as "Website 1."¹ There is probable cause to believe that Michael Fluckiger is one of the administrators of Website 1 and that he conspired with others known and unknown to advertise child pornography on Website 1, in violation of 18 U.S.C. §§ 2251(d)(1) and (e).
9. As of the present date, Website 1 remains an active child pornography bulletin board and website dedicated to the advertisement and distribution of child pornography, and the discussion of matters pertinent to the sexual abuse of children, including the safety and security of individuals who seek to sexually exploit children online. From on or about August 2014 until on or about February 20, 2015, Website 1 was physically hosted on servers in Lenoir North Carolina, in the Western District of North Carolina. As such, all of the posting activity on the site, including its administration and the advertisement and distribution of child pornography, occurred in the Western District of North Carolina. After successfully registering and logging into the site, a user can access any number of sections, forums, and sub-forums that contain and/or provide links to toddler,

¹ The actual name of "Website 1" is known to law enforcement. The site remains active and disclosure of the name of the site would potentially alert its members to the fact that law enforcement action is being taken against the site, potentially provoking members to notify other members of law enforcement action, flee, and/or destroy evidence. Accordingly, for purposes of the confidentiality and integrity of the ongoing investigation involved in this matter, specific names and other identifying factors have been replaced with generic terms and the website will be identified as "Website 1."

prepubescent, and pubescent child pornography that depict boys and girls, and which include depictions of sexual intercourse. Users also may exchange private messages with each other.

10. A review of the various topics within these forums revealed that each topic contains a title, the author, the number of replies, the number of views, and the last post. The "last post" section includes the date and time of the post as well as the author. Upon accessing a topic, the original post appears at the top of the page, with any corresponding replies to the original post included the post thread below it. Typical posts appear to contain text, images, thumbnail-sized previews of images, compressed files, links to external sites, or replies to previous posts.
11. Website 1 has one primary administrator (hereinafter, "Administrator-1") and two additional administrators (hereinafter, "Administrator-2" and "Administrator-3") chosen by Administrator-1. Administrators of Bulletin Board Websites essentially run the site by: handling the technical needs of the site, hosting the site, developing and enforcing the rules of the site, admitting new members, and deleting existing members, among other tasks. Website 1 has an "Administration" section or forum that is accessible only to the Administrators and Moderators² where Administrators and Moderators can

² Moderators are individuals selected by administrators who are assigned to monitor certain parts of a bulletin board to ensure compliance with board rules, delete non-functioning posts or links, and report problems up to administrators.

communicate about the site. According to Website 1, user Administrator-2 joined the board on August 24, 2014. Administrator-2 has made 185 posts to Website 1 as of February 28, 2015. He is most active in the board categories: "Administration" and "Girls HC"³ with 60 and 30 posts in those categories respectively.

12. In a private message dated August 26, 2014 sent by Administrator-2 to a user of Website 1, Administrator-2 states, "I removed your links from your post due to an unsafe file host..." Based on my training and experience, I know that administrators and moderators of Website 1 routinely edit posts that contain links to external websites deemed unsafe.
13. In a private message dated September 1, 2014 sent by Administrator-2 to Administrator-1, Administrator-2 recommends that a specific user on Website 1 be promoted to the status of moderator on Website 1. Administrator-2 states that this individual is already a moderator of another website which is known to your affiant as a website whose purpose is the advertisement and distribution of child pornography.
14. On January 19, 2015, Administrator-2 created a post titled, "Producers/Original Content Board" in the Administration forum. In the post, Administrator-2 stated, "...I have had a request for us to have a Producers/Original Content Board...The plus side to this is that we may get some new content...[Website 1] may also become an even bigger target for

³ Based on my training and experience, I know that the abbreviation "HC" means hardcore (*i.e.*, depictions of penetrative sexually explicit conduct).

LEA...Anyone have any thoughts or recommendations about this?" Based on my training and experience, I know that LEA is an acronym for "Law Enforcement Agency".

15. On February 3, 2015, Administrator-2 created a post titled, "Logo Contest", in the Administration forum. In the post, Administrator-2 stated, "I know we have talked about changing the logo before but it still hasn't happened yet. I was considering having a 'Logo contest' here at the forum."
16. On February 13, 2015, Administrator-2 created a post titled, "Producer and Member Rules." Administrator-2 stated that members accessing the producers-only section must follow all existing Website 1 rules. Further, Administrator-2 stated that members in the producers-only section must not be disrespectful or complain about the quality of newly produced material. In the producers-only section, Administrator-2 posted a link to the original forum rules posted by Administrator-1, which require encryption when sharing material on Website 1.
17. In addition to posts regarding the administration of Website 1, many posts by Administrator-2 contain and/or provide links to child pornography. For example, on September 19, 2014, in a Website 1 forum named "Pre-teen Photos / Girls HC," Administrator-2 made a post titled "[Website 1] Chat / Pedo Chat Girl". In the post, Administrator-2 stated, "I put out a request and someone very generous provided a pic for [Website 1] Chat. So here she is along with the original Pedo Chat girl." The post

contained a link to an image hosted on an external website that depicted a prepubescent female under the age of 12 with her legs spread and her fingers inserted in her vagina. A handwritten sign is visible next to the prepubescent female that reads, "[Website 1] chat is great...".

Identification of Michael Fluckiger as Administrator-2 on Website 1

18. In November 2014, a foreign law enforcement agency (FLA) seized a different website (hereinafter "Website 2") they were investigating that was also dedicated to the advertisement and dissemination of child pornography. A user existed on Website 2, who was a moderator of Website 2, and signed their postings on Website 2 with the same unique signature line used by Administrator-2 on Website 1. A signature line is a block of text customized by the user that the user can choose to have appear at the end of every post made on the website. Additionally, this user of Website 2 utilized the same moniker or user name as Administrator-2 on Website 1.
19. In a private message on Website 1, dated August 25, 2014, between Administrator-2 and another user of Website 1, Administrator-2 stated, "I am a moderator on another forum ([Website 2]) so I know what it is like...". Additionally, in a post dated December 10, 2014 on Website 2, the Website 2 user who utilized the same unique user name as Administrator-2 stated, "This was posted today on the Administration board at [Website 1]". Based on my training and experience, I believe these statements confirm that

Administrator-2 is the same individual who utilized the same unique user name on Website 2 and was a moderator on Website 2.

20. Users of Website 2 were known by law enforcement to communicate in a separate chat room, hereinafter referred to as "Website 3." The purpose of this chat room was to discuss child pornography and child exploitation. In a private message between a user of Website 3, who used the same unique user name as Administrator-2, the user stated, "...My real name is Mike (just so you know)." Additionally, in a communication on Website 3 between the individual on Website 3 who used the same user name as Administrator-2, and another user of Website 3, the individual who used the same user name as Administrator-2 stated, "Sorry, [Administrator-1] extended the kick time to 60 min...". Based on my training and experience, I believe this statement confirms that this individual on Website 3 is the same individual as Administrator-2 on Website 1, and was in direct communication with Administrator-1.
21. During the course of its investigation, the FLA obtained an IP Address for this user of Website 3, who used the same unique user name as Administrator-2 (on Website 1) and the Website 2 user. The IP Address identified by the FLA was owned by Comcast. Comcast responded to a subpoena and identified the subscriber as Michael Fluckinger (sic), 819 W Arch St., Portland, IN 47371.

22. Based on my training and experience, and the information provided to the FBI by the FLA investigating Website 2 and Website 3, your affiant believes that Administrator-2 on Website 1 is the same individual who used the same user name on Website 2 and Website 3, and is the same individual for whom the FLA obtained an IP Address. Additionally, the user on Website 3 stated that his true name was "Mike," which is a common abbreviation for Michael and the first name of the subject of the FBI investigation into Administrator-2.

23. A criminal history check showed that Michael Fluckiger (with the same social security number as the Michael Fluckiger residing at 819 W Arch St., Portland, Indiana) was arrested by the Indiana State Police on December 17, 1991 on the charge of "Child Molesting." Based on the Indiana State Police's case file, which your affiant obtained, Michael Fluckiger was accused of molesting a 9-year-old female child by inserting his finger into her vagina. The Indiana State Police case file indicates that on or about June 18, 1993, Michael Fluckiger was convicted of child molesting, and on or about July 18, 1993, he was sentenced to four years' probation. The criminal history check did not reflect this conviction.

24. Based on the information provided in the preceding paragraphs, your affiant believes that Michael Fluckiger is Administrator-2 on Website 1, and that he administers Website 1 from his residence in Portland, IN.

25. A check of publicly available databases revealed Michael Fluckiger currently resides at 819 W Arch St., Portland, IN 47371 with his wife.
26. On March 2, 2015, physical surveillance of 819 W Arch St., Portland, IN 47371 revealed that Fluckiger returned to his residence at approximately 1:30 PM. Notably, Administrator-2 logged into Website 1 less than one hour after Fluckiger returned home.

CONCLUSION

27. Based on the aforementioned factual information, your affiant respectfully submits that there is probable cause to believe that Michael Fluckiger did conspire to advertise child pornography with others known and unknown on Website 1 in violation of 18 U.S.C. §§ 2251(d)(1) and (e).
28. Your affiant, therefore, respectfully requests that the attached warrant be issued authorizing the arrest of Michael Fluckiger.



Daniel Alfin
Special Agent
Federal Bureau of Investigation

Sworn and subscribed before me this 4th day of March, 2015.



DAVID C. KESSLER
UNITED STATES MAGISTRATE JUDGE